IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

**THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU**
**&**
**THE HONOURABLE MR. JUSTICE K.T.SANKARAN**

TUESDAY, THE 25TH SEPTEMBER 2007 / 3RD ASWINA 1929

**WA.No. 2330 of 2007**
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*( AGAINST THE JUDGEMENT IN WPC.20332/2007 Dated 03/07/2007 )*

APPELLANT/PETITIONER:
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C.T.RAJAN,
M/S.CHEMMANRIKKAT PLANTATIONS,
SHORNUR.

BY ADV. SRI.V.V.ASOKAN
ADV. SMT.S.AMINA

RESPONDENTS/RESPONDENTS:
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1. THE AGRICULTURAL INCOME TAX OFFICER,
MANNARKKAD.

2. THE DEPUTY TAHSILDAR (REVENUE RECOVERY)
TALUK OFFICE, OTTAPPALAM.

BY SR. GOVERNMENT PLEADER SHRI MUHAMMED RAFIQ.

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 25/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**H.L.DATTU, C.J. & K.T.SANKARAN,J.**

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**W.A. NO. 2330 OF 2007**

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**Dated this the 25th September, 2007**

**JUDGMENT**

**H.L.DATTU, C.J**.

This appeal is directed against the judgment of the learned single Judge in W.P.(C) No.20332 of 2007, dated 3rd July, 2007. The orders of assessment passed by the Agricultural Income Tax Officer for the assessment years 2005-06 and 2006-07 and the recovery proceedings initiated pursuant thereto are the subject matters of the Writ Petition. The claim of the assessee is that he is entitled for the benefit of the notification issued by the State Government in S.R.O.No.392 of 2005, dated 22nd April, 2005 and subsequent notifications issued by the State Government. The claim of the assessee was rejected by the assessing authority. The assessee has filed a rectification application before the assessing authority to rectify the apparent mistakes on the face of the assessment orders passed by the assessing authority. Even before the assessing authority could consider the application/petition filed by the assessee for rectification of the so called mistakes in the orders of assessment for the assessment years 2005-06 and 2006-07, the petitioner has rushed to this Court by filing the Writ Petition.

2. In our view, the learned single Judge, without going into the merits or demerits of the petitioner's case, should have relegated the petitioner to prefer an appeal, if he so desires, if for any reason, he is aggrieved by the orders of assessment passed by the assessing authority for the assessment years 2005-06 and 2006-07.

3. The Statute creates appropriate forum for an aggrieved person to question the correctness or otherwise of the orders of assessment passed by the

assessing authority. By-passing that remedy, petitioner cannot approach this Court by filing a Writ Petition questioning the orders of assessment passed except in exceptional cases which have been stated by the Apex Court in any number of cases.

4. The learned Judge has rejected the Writ Petition on the merits of the case. In our opinion, that need not have been done by the learned single Judge.

5. In view of the above, we dispose of this appeal. If for any reason, the petitioner is aggrieved by the orders of assessment passed and the recovery notices issued pursuant thereto for the aforesaid assessment years, he is at liberty to question the same by filing appeal before the appropriate forum. If such an appeal is filed, the Appellate Authority will consider the same on merits without being influenced by any one of the observations made by the learned single Judge while disposing of the Writ Petition.

Ordered accordingly.

**(H.L.DATTU)**
**Chief Justice**

**(K.T.SANKARAN)**
**Judge**

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